

## **REMARKS**

### **A.     GENERALLY**

Applicant thanks examiner Ryan Jakovac for extending the courtesy of a telephone interview to Applicant on December 21, 2009. Applicant's summary of the interview is attached hereto.

Claims 36-59 remain in the Application. Claims 1-35 were previously canceled. Claims 36-42 and 47-53 have been amended. Claims 58 and 59 have been added. No new matter has been added.

### **B.     REJECTIONS UNDER §103(a)**

Claims 36-57 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2007/0214083 filed by Jones et al. (hereinafter, "Jones") in view of U.S. Patent Application Publication filed by Fu et al. (hereinafter, "Fu").

Independent claim 36 has been amended to recite the following limitations:

36. (Currently Amended)     A system for providing data filtering from a cable modem termination system (CMTS) in a cable data network comprising:

the CMTS, wherein the CMTS comprises a packet counter, wherein the packet counter determines a number of packets sent to a subscriber device from the CMTS (herein, "downstream packets") and a number of packets originating from the subscriber device and sent to the CMTS (herein, "upstream packets"), and a data gateway agent;

a datastore accessible to the data gateway agent for storing a data transfer rule selected by a subscriber, wherein the selected data transfer rule comprises filtering criteria selected by the subscriber, and wherein the data transfer rule comprises a recurring time period during which the filtering criteria may be applied, and

wherein the gateway agent comprises instructions that cause the CMTS to:

receive a packet prior to receipt of the packet by the packet counter;

access the data transfer rule stored in the datastore;

determine whether the packet is received during the recurring time period;

use the filtering criteria to determine whether the packet violates the data transfer rule when the packet is received during the recurring time period;

forward the packet to the packet counter for counting when the packet is not received during the recurring time period or does not violate the data transfer rule; and

apply a corrective measure to the packet when the packet is received during the recurring time period and violates the data transfer rule.

Claim 36 (as amended) recites the limitation, “wherein the selected data transfer rule comprises filtering criteria selected by the subscriber, and wherein the data transfer rule comprises a recurring time period during which the filtering criteria may be applied.” Applicant respectfully submits that the combination of Jones and Fu does not teach this limitation.

In support of the assertion that the combination of Jones and Fu teaches the application of filtering criteria during a time period, the Office Action cites Fu, ¶¶ 0021-25. Fu discloses a collection of filters that may be stored in a filter table:

[0021] The system may filter packets according to a security policy. The security policy may be implemented as a collection of filters. The filters may be stored in one or more filter tables. Each filter may include a seven-tuple having a source address, a destination address, a source port, a destination port, a protocol, a life time, and an action. Alternatively, each filter may include a subset of the seven-tuple. For example, a filter may include only a source address, or only a destination port. The filters in a filter table may be specified in a generic high level language, such as, for example extended markup language (XML). An exemplary filter table is shown in Table 1. (Fu, ¶0021.)

TABLE 1

SRC ADDR	DEST ADDR	SRC Port	DEST Port	Protocol	Life-time	Action
82.48.42.112	82.68.42.56	Any	21	IP	0	Deny
82.48.42.112	Any	Any	135	IP	1	Allow
Any	82.48.42.112	135	Any	IP	Default	Pending

The filter table establishes a “lifetime” for a filter. As described in Fu, the filter “lifetime” is a time after which the filter expires.

[0025] The sixth column represents the lifetime of the filter. Each filter may have an infinite lifetime, a default lifetime, or a specified lifetime. An infinite lifetime indicates a filter will endure until explicitly removed. An infinite lifetime maybe indicated by a value of, for example, any negative number. A default lifetime may be set that will be applied to each new filter that does not have a specific lifetime. A specified lifetime is a lifetime chosen by a user or an administrator. (Fu, ¶0025.)

And:

[0049] For another example, the user may be prompted via the GUI **226** when a filter in a personal filter table is about to expire. The user may be asked whether to renew the lifetime of the filter. If there is no response from the user until after the filter

expires, or the user does not want to renew the filter, a filter table update message may be sent from the terminal **102** to the NEP **122** or **132** to delete the rule. (Fu, ¶0049.)

Applicant respectfully submits that the disclosed filter expiration time does not teach the claimed *recurring* time period during which a selected data transfer rule applies. According to Fu, the filter either applies (it has not expired) or there is no rule to apply. The limitations of claim 36 (as amended) establish a *recurring* time period when a valid rule will be applied. At least based on the foregoing, claim 36 (as amended) is patentable over the combination of Jones and Fu.

Independent claim (as amended) 47 recites limitations similar in scope to the limitations of claim 36 (as amended), including the limitation, “wherein the data transfer rule comprises a recurring time period during which the filtering criteria may be applied.” For at least the reasons set forth above in the discussion of claim 36 (as amended), claim 47 (as amended) is patentable over the combination of Jones and Fu.

The claims that depend directly or indirectly from independent claims 36 (as amended) and 47 (as amended) recite all of the limitations of their respective base claims. The claims that depend directly or indirectly from independent claims 36 (as amended) and 47 (as amended) recite limitations not taught by the combination of Jones and Fu and are, therefore, patentable over that combination.

With regard to dependent claims 37 and 48, the Office Action asserts that the combination of Jones and Fu teaches the recited limitation, “wherein the filtering criteria comprise content criteria...” (citing Fu, ¶¶ 0019-028, 0032-36 and 0050-51). Applicant respectfully submits that cited disclosures are directed to packet header information. The claims are directed to packet payload information, not to packet header information. To make this distinction more clear, Applicant has amended claims 37 and 48 to recite the limitation, “wherein the filtering criteria comprise packet payload criteria...”

**D. CONCLUSION**

Applicant respectfully submits that the claims as currently listed are in condition for allowance. Applicant requests that this response be entered and that the current rejections of the claims now pending in this application be withdrawn in view of the above amendments, remarks and arguments.

Respectfully submitted,

/Elliott D. Light/

Elliott D. Light, J.D.  
Registration No. 51,948  
Jon L. Roberts, Ph.D., J.D.  
Registration No. 31,293  
MARBURY LAW GROUP, PLLC  
11800 Sunrise Valley Drive, Suite 1000  
Reston, VA 20191-5302  
(703) 391-2900